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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. CR 11-0114-WHA
	)	
Plaintiff,	)	<del>[PROPOSED]</del> DETENTION ORDER
	)	
v.	)	
	)	
DAVID JEFFERSON,	)	
	)	
Defendant.	)	
_____	)	

This matter came before the Court on March 14 and March 17, 2011 for a detention hearing upon the motion of government counsel. See 18 U.S.C. § 3142(f)(1)(E). Defendant David Jefferson was present with his counsel, Assistant Federal Public Defender Elizabeth Falk. Assistant United States Attorney Andrew M. Scoble appeared for the government. Both parties proceeded by proffer. Prior to the hearing the Court had reviewed the report of Pretrial Services.

Both sides were afforded an opportunity prior to the hearing to review the bail report of Pretrial Services. While the government argued for detention on grounds of both flight risk and danger to the community, Pretrial Services recommended that the defendant be detained on the

1 ground of danger to the community. The Court finds that the defendant does not pose a risk of  
2 flight. However, the Court also finds that no condition or combination of conditions can  
3 reasonably assure the safety of the community. This Order supplements the Court's findings  
4 announced from the bench and serves as written findings of fact and statement of reasons as  
5 required by 18 U.S.C. § 3142(i)(1).

6 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141-50, sets forth four factors which the  
7 Court must consider in determining whether pretrial detention is warranted. These factors are:

8 (1) the nature and circumstances of the offense charged (including whether the offense  
9 involves, among other things, a firearm);

10 (2) the weight of the evidence against the person;

11 (3) the history and characteristics of the person including, inter alia, character,  
12 employment, family, and criminal history, and whether the person was on probation or  
13 parole at the time of the current offense or arrest; and

14 (4) the nature and seriousness of the danger to any person or the community that would  
15 be posed by the person's release.

16 See 18 U.S.C. § 3142(g)(1)-(4).

17 With regard to the first factor, the nature and circumstances of the offense charged, a  
18 federal grand jury has indicted the defendant for being a felon in possession of a firearm and  
19 ammunition, in violation of 18 U.S.C. § 922(g)(1). According to the government, on December  
20 5, 2010, officers responding to reports of a fight on the Fourth Floor of San Francisco General  
21 Hospital, were alerted that the defendant had a gun. They encountered him and seized from his  
22 person a semi-automatic pistol with an extended magazine, loaded with 14 rounds of  
23 ammunition. This is a grave charge, involving a statutory maximum sentence of ten years'  
24 imprisonment.

25 Turning to the second factor – the weight of the evidence – this is the least important of  
26 the factors, and the bail statute neither requires nor permits a pretrial determination of guilt.

27 United States v. Gebro, 948 F.2d 1118, 1121-22 (9th Cir. 1991). As noted above, the  
28 government proffers that the defendant was arrested on December 5, 2010 by sheriff's deputies at

1 San Francisco General Hospital after they responded to reports of a fight on a ward, were alerted  
2 that the defendant had a firearm, detained him at gunpoint, and found a loaded semi-automatic  
3 pistol in his waistband. The government further proffers that, on or about December 8, 2010, a  
4 San Francisco Police Department conducted a probation search of the home of the defendant's  
5 girlfriend (a felon with a warrantless search condition); this was a residence the defendant  
6 reportedly shared with his girlfriend and her minor daughter. Officers found, hidden in the  
7 broiler in the kitchen, a loaded Ruger .357-caliber handgun with an altered serial number.  
8 Finally, the government proffered that the defendant's girlfriend later told police officers in a  
9 Mirandized interview that she knew the defendant had a firearm..

10 Concerning the history and characteristics of the defendant, and the nature and  
11 seriousness of the danger posed by the defendant's release, the government proffered that the  
12 defendant's criminal history includes an ongoing series of arrests involving firearms and the  
13 possession of drugs in circumstances suggesting drug sales. The government proffered that:

14 –On or about October 3, 2004, the defendant was arrested driving a car whose right front  
15 passenger (an individual who was also detained with the defendant when the defendant  
16 was arrested for the instant offense on December 5, 2010 at San Francisco General  
17 Hospital) had a loaded .45-caliber pistol on the floor at his feet, and whose rear passenger  
18 was sitting by a paper bag containing a loaded .38-caliber revolver. In the glove  
19 compartment of the car, officers found a scale, cocaine and crack cocaine.

20 –On or about September 20, 2005, police officers executing a search warrant at the  
21 residence shared by the defendant and his then-girlfriend, saw the defendant, apparently  
22 warned that his girlfriend had been arrested, attempt to flee the residence. He appeared to  
23 be concealing a long object in his pants. He fled into a nearby residence, then came out  
24 of its garage and was apprehended as he tried again to flee officers. A search of the  
25 garage from which he had just come out revealed a loaded shotgun with a pistol grip,  
26 along with a 9-mm Ruger handgun, and ammunition in various calibers (including 7.62-  
27 mm, .357-caliber, and .38-caliber). Execution of the search warrant resulted in the  
28 seizure, from the bedroom shared by the defendant and his girlfriend, of MDMA, crack,

1 marijuana, a scale, packaging material, \$1300 in a closet, and \$1566 hidden in a water  
2 bottle. On or about February 20, 2007, the defendant was convicted of a felony violation  
3 of California Health & Safety Code Section 11351 and sentenced to three years in state  
4 prison.

5 –On or about February 9, 2006, the defendant was arrested after a car stop. The  
6 defendant was charged with possession of a concealed .380-caliber Bursa handgun with  
7 loaded with six rounds. On or about February 20, 2007, the defendant was convicted of a  
8 felony charge of California Penal Code Section 12025 and sentenced to two years in state  
9 prison.

10 –On December 21, 2006, a San Francisco Police search warrant at the defendant's  
11 residence (the same residence as that searched on September 20, 2005) resulted in the  
12 seizure from the basement of two loaded assault rifles with high-capacity magazines.  
13 From the bedroom shared by the defendant and his girlfriend, officers seized .38-cal.  
14 Special ammunition and 12-gauge buckshot, plus scales and suspected MDMA.

15 –On September 13, 2010, following his release from prison on the two felony convictions  
16 noted above, the defendant was convicted of a misdemeanor charge of violating  
17 California Vehicle Code Section 23152 and sentenced to two days jail and three years'  
18 probation.

19 As is noted above, the Court finds that the defendant does not pose a risk of flight.  
20 However, the Court finds that the government has established by clear and convincing evidence  
21 that the defendant constitutes a danger to the community, and that no condition or combination of  
22 conditions will reasonably assure the safety of the community. In making this finding, the Court  
23 notes the circumstances of the instant offense – the taking of a loaded firearm into a hospital.  
24 The Court also notes the series of events represented by the defendant's criminal history as  
25 reported by Pretrial Services and proffered by the government; these depict repeated firearm  
26 possession, both on the defendant's person and at the homes where he has resided. Finally, the  
27 Court notes that the defendant was on probation at the time he was arrested for carrying a loaded  
28 weapon into San Francisco General Hospital.

1 Accordingly, pursuant to 18 U.S.C. § 3142(i), it is ORDERED that:

2 (1) The defendant be, and hereby is, committed to the custody of the Attorney General  
3 for confinement in a corrections facility separate, to the extent practicable, from persons awaiting  
4 or serving sentences or being held in custody pending appeal;

5 (2) The defendant be afforded reasonable opportunity for private consultation with his  
6 counsel; and

7 (3) On order of a court of the United States or on request of an attorney for the  
8 government, the person in charge of the corrections facility in which the defendant is confined  
9 shall deliver the defendant to an authorized Deputy United States Marshal for the purpose of any  
10 appearance in connection with a court proceeding.

11 IT IS SO ORDERED.

12  
13 DATED: 3/31/11

